

REMARKS

Claims 3-27, 32-51, 54-66 and 71-82 are pending. Claims 5, 6, 9, 11, 12, 20-27, 36-51, 56, 57, 60, 62, 63 and 75-82 have been withdrawn from consideration. Claims 3, 4, 14, 16-19, 32-35, 54, 55, 65 and 71-74 have been amended. Favorable reconsideration is requested.

Claims 14 and 65 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. The amendments to those claims is believed to obviate the rejections and their withdrawal is respectfully requested.

Claims 17, 33 and 72 were rejected under 35 U.S.C. § 102(e) over the prior art discussed on pages 1-7 of the present specification (the "admitted prior art"). Claims 3, 18, 34, 54 and 73 were rejected under 35 U.S.C. § 102(e) over Miller (US 2003/0189915). Claims 4, 7, 10, 13, 16, 32, 55, 58, 61, 64 and 71 were rejected under 35 U.S.C. § 103(a) over the admitted prior art. Claims 19, 35 and 74 are rejected under 35 U.S.C. § 103(a) over the admitted prior art in view of Miller. Applicants submit that the amended independent claims under consideration are patentable for at least the following reasons.

Independent Claims 17, 33 and 72

Claim 17 is directed to a mobile communication system, which includes: a base station; a mobile station for which a shared channel shared with other mobile stations is set in order to perform data transmission with the base station; and a radio network controller which notifies the base station of at least allocated power which is a maximum value of power of the shared channel. Means is included in the base station, which calculation an average amount of use of the power in a data transmission time on the shared channel.

Claim 17 now even more explicitly recites, *inter alia*, that the measuring the transmission power of the data transmission is done in a data transmission time. This feature is not described in the admitted prior art. That is, in the known standard the measurement is performed in a prescribed period other than during the period of data transmission.

For at least this reason, amended independent claim 17 is believed clearly patentable over the admitted prior art. Amended independent claims 33 and 72 recite substantially similar features and are believed patentable for substantially the same reasons.

Independent Claims 3, 18, 34, 54 and 73

Claim 3 is directed to a mobile communication system for forming a high speed data transfer path for a mobile station and performing resource management on the high speed data transfer path. The mobile communication system includes: means which measures a time rate at which data is sent on the data transfer path; and means which performs the resource management on the basis of a result of the measurement.

Claim 3 has been amended to even more clearly recite that resource management is performed by presuming the use rate of the resource by measurement of a time rate that is identical with the time rate of transmission of data on a shared channel. Applicants find no teaching of this feature in Miller. For at least this reason, amended independent claim 3 is believed clearly patentable over Miller. Amended independent claims 18, 34, 54 and 73 are believed patentable for substantially similar reasons.

Independent Claims 4, 16, 32, 55 and 71

Amended independent claims 4, 16, 32, 55 and 71, among other things, calculate an average number of the codes in a data transmission time, and the number of use of the codes is measured during the data transmission time. Applicants have found no teaching or suggestion of this feature, now even more clearly recited, in the admitted prior art. For at least this reason, amended independent claims 4, 16, 32, 55 and 71 are believed patentable over the admitted prior art.

Independent Claims 19, 35 and 74

Independent claims 19, 35 and 74 recite calculating an average number of use of the codes in a data transmission time based on measurement of the number of use of the codes during the data transmission time, and calculating an average amount of use of the power in a data transmission time based on measurement of the use of the power during the data transmission time. Applicants have found no teaching or suggestion of this in the cited art.

The dependent claims are believed patentable for at least the same reasons as their respective base claims. Entry of the above amendments is requested.

In view of the above amendments and remarks, applicants believe the pending application is in condition for allowance.

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Respectfully submitted,

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